

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20405
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2006. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed an application for the 2006 property reduction benefit on April 17, 2006. The application was approved, and the petitioner received a benefit for payment of the property tax on his homestead.

Idaho Code §§ 63-707 and 63-708 provide for audit of all claims and recovery of benefits that have been paid in error. When the staff compared the petitioner's application [Redacted] and the records retained by the Tax Commission, income was identified that had not been reported in the petitioner's application.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive a property tax reduction benefit. The pertinent part of Idaho Code § 63-701 states:

63-701. Definitions. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

...

(5) **"Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code,** and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
 - (b) Support money;
 - (c) Nontaxable strike benefits;
 - (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
 - (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
 - (f) Worker's compensation; and
 - (g) The gross amount of loss of earnings insurance.
- (Emphasis added.)

The property tax reduction benefit program is a benefit for certain individuals based on their qualifications as claimants. The amount of benefit is determined by the income the claimant and the claimant's spouse receive in the calendar year preceding the year of the application.

Because the staff identified income the petitioner received in 2005 that was not listed in his application, the staff sent the petitioner a Notice of Deficiency Determination (NODD). The petitioner was asked to repay the benefit plus interest.

In response to the NODD, the petitioner sent a letter explaining why the income should not be considered his income. He said the \$120,800 reported as the income he received from the sale of Idaho real property is incorrect. He said the amount was less than \$120,800, and it was not his house that was sold. He said he put the house in his name to accommodate a friend. He said the basis in the home was \$99,900 plus approximately \$15,000 of work the friend did on the house. He

said: “. . . so when he refinanced the extra left over from paying off my mortgage went completely to him for work & down payment made by him.” He promised to obtain supporting documents.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner did not respond to a letter the Tax Commission sent that explained his right to submit additional information or request an informal conference. The petitioner has sent nothing to support his claim that the income from the sale of the real property should not have been reported as his income or that the capital gain from the sale was less than the reported sales price. Repayment of the petitioner's 2006 property tax reduction benefit is appropriate.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners.

WHEREFORE, the Notice of Deficiency Determination letter dated May 14, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following 2006 property tax benefit reimbursement and interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,069.04	\$20.19	\$1,089.23

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.